

**Meeting Summary
DNR Clean Air Act Task Force
December 10, 1999 – Madison, WI**

Participants: Peter Beitzel, Metropolitan Milwaukee Association of Commerce; Patrick Stevens, WI Manufacturers & Commerce; Harold Frank, Dairyland Power Cooperative; David Donovan, Northern States Power Co.; Gary Van Helvoirt, WI Public Service Corp.; Tom Walker, WI Transportation Builders Association; Kris McKinney, WI Electric Power Co.; Ed Wilusz, WI Paper Council; Hank Handzel, DeWitt Ross & Stevens (for WPC and Printing Industries of WI); Martin David, UW-Madison Economics Dept.; Ernie Stetenfeld, AAA Wisconsin; Ken Yunker, SEWRPC; Rob Kennedy, Citizens for a Better Environment; Lou Skibicki, RTP Environmental Associates; Pat Haskin, Tomahawk Monument Co.; Jennifer Badeau, Petroleum Marketers Assoc. of WI; Greg Eirschele; Todd Palmer, DeWitt Ross & Stevens; Bob Fassbender, HFO & Associates; Jim Albrecht, STS Consultants; J. Robert Nicholson, US Filter (retired consultant); Jim Beasom, Appleton Papers, Inc.; Jay Meili (Molded Dimensions), Peter Tolsma and Ron Kilby (Payne & Dolan), and Carl T. Komassa (Beck Carton), all with Small Business Clean Air Advisory Committee; Hampton Rothwell and Pamela Christenson, WI Dept. of Commerce; Neil Howell, Dept. of Administration; Jeff Schoepke, Gov. Thompson's Office; Sally Jenkins, Public Service Commission of WI; John Stolzenberg, Legislative Council; Kendra Bonderud, Legislative Audit Bureau; Carol Cutshall, Joe Conduah, Dennis Presser, Stephen Hirschfeld, WI Dept. of Transportation; Dennis Koepke, Anne Urbanski, Bob Lopez, Larry Bruss, Lloyd Eagan, Allen Hubbard, Chris Bovee, Jerry Medinger, Tom Karman, Mike Friedlander, Anne Bogar, WI Dept. of Natural Resources.

Handouts: Koepke, Clean Air Act Rate of Progress emission reduction requirements (MS Excel spreadsheet); Lopez, 1-Hour Ozone SIP Development (PowerPoint overheads).

Next meeting: Thursday, January 6, 1999, 1:30 – 4:00 p.m., Room 041, GEF 3 Bldg., 125 S. Webster Street, Madison, WI

Discussion:

Announcements: Anne Urbanski announced the times and locations of the four meetings planned from January through March 2000. She said she has had trouble with a lot of e-mail being “undeliverable” and asked the participants to be sure to provide their current e-mail addresses on the sign-up sheet.

Process issues: Eagan said that the industrial representatives wanted to present some of their concerns. Pat Stevens said he thought the Clean Air Act Task Force has been a valuable way for stakeholders to learn a lot from knowledgeable DNR staff; however, he and others are concerned that the meetings are not a good opportunity to have frank discussions about policy issues. Stakeholders are receiving lots of information they haven't seen before, with little or no time to process it or figure out how it relates to other data. Ed Wilusz said he echoed Stevens' comments and hoped that DNR could provide an opportunity for stakeholders to learn more about the technical issues, such as modeling, prior to making input on policy issues. He was not sure, he said, what would be the proper forum for having more open discussions about what the policy decisions might be, what direction DNR would want to go in those decisions, where the stakeholders might disagree with DNR or wish to present other alternative. Eagan thanked them for their input, and said DNR probably needed to do a better job explaining on its meeting agendas what it is seeking to accomplish at meeting: having a significant discussion or just providing information. We also need to have some smaller forums on topics of interest to some people but not the entire group. Carol Cutshall said the DNR should consider rethinking the structure of the Task Force and its committees to accommodate real face-to-face debate among sector representatives. Eagan said it's fine for people to suggest the need for a new process, but she wants to hear specific suggestions up front, rather than DNR staff working on a proposal with no guidance and then receiving complaints. Rob Kennedy said he and others would appreciate receiving handouts several days ahead of each meeting, so they can review them prior to the discussion. Ken Yunker asked that handouts of all overheads be provided at meetings. Tom Walker said that sometimes it seems to him that the stakeholders can't engage in a frank discussion about certain topics because it appears that DNR has made a judgment that the topic was not a legitimate option for the group to discuss. If they don't have a chance to discuss the full range of options, they might remain unconvinced by DNR's position; thus they want to hear DNR's ideas about why some options are appropriate and others not. Wilusz suggested having a one-day forum to explain the modeling issues involved in the one-hour ozone attainment demonstration, as well as DNR providing information on what issues it will be

working on in-between Task Force meetings. Larry Bruss suggested a one-day modeling workshop in late January 2000; Wilusz expressed concern that the timing would be too late in the discussion process. Eagan said DNR would have time to do more modeling between the workshop and the time it takes the attainment demonstration package to the Natural Resource Board for approval. Peter Beitzel suggested putting various background materials on the Air program's webpage; Bob Lopez agreed this would reduce DNR's worry that some larger files might "crash" some people's e-mail systems. DNR staff will try to post materials on the website when this can reasonably be accomplished.

One-hour ozone standard attainment demonstration – Bob Lopez said DNR must develop a solid plan that moves Wisconsin toward attainment regardless of whether or not this includes emission reductions from the currently-suspended NOx SIP call. The department is attempting to craft optional structures for the components and bring these together with a comprehensive SIP structure during February and March 2000. These would move forward as working drafts that the Natural Resources Board can approve for public review, which will provide input toward the final decision. By late January the DNR should have enough modeling data to know which strategy options are most viable. In addition to the attainment demonstration, the DNR is required by the 1990 Clean Air Act Amendments to show that it is making progress on a timetable of specified levels of emission reductions. DNR is also concerned about reducing health impacts, so the agency is trying to ensure that its attainment demonstration plan is directionally consistent with longer term efforts to reduce 8-hour average ozone concentrations. In January this group will discuss 3 regulatory requirements that DNR should have dealt with by 1994 – NOx emission cutpoints for vehicle I/M, shape of a program to regulate NOx emissions using Reasonably Available Control Technology (NOx RACT), and non-CTG VOC RACT (a requirement in the 1990 Clean Air Act Amendments for reducing VOC emissions from some specific categories of major sources). These three requirements must be met so EPA can approve our attainment plan. Hank Handzel asked if there were any draft plans yet for a possible multi-state agreement on reducing NOx emissions; Eagan and Bruss said that discussions are still conceptual at this point.

Lopez then summarized the schedule for the 1-hour attainment demonstration; Wisconsin's most likely "alternate bottom line" would be to submit a section 126 petition, so a probable discussion is whether to pursue this sooner rather than later. Wilusz said he saw a document that seemed to command Wisconsin, Illinois and Indiana to develop at least a three-state agreement, as part of the 1998 SIP submittal; Bruss said DNR knows of no EPA edict regarding such an agreement. Lopez said that in February the DNR will present working drafts of the various parts of the attainment demonstration to the Task Force so that a formal proposal can be sent to the March 2000 NR Board meeting. Pat Stevens said the issue of a regional multi-state agreement is an example of the need to discuss policy decisions. Some questions for that discussion, he said, might include: what standard DNR was using for including individuals or companies that will need to make reductions if they are in the area affected by the proposal; what is the decision-making process; when might DNR decide to pursue a s. 126 petition instead of the attainment demo rulemaking; and (according to Kris McKinney) if Wisconsin does pursue a petition, what elements would go into that package. Lopez said there are two basic options—one fairly flexible, involving sector-wide emission budgets; the other much more specific regarding source sectors, levels of control etc. Eagan said she thought Stevens was asking for an opportunity to participate in roundtable discussions about how the regional discussions are going, what Wisconsin's choices are, and the pluses and minuses of each choice. However, she said, it's too soon to set up those discussions because the technical analyses are not complete. Her goal is to get as much emission reductions as we can from other states; she would prefer voluntary reductions but will file a petition if that's necessary. Regardless, Wisconsin has to develop assumptions about how much pollutants are entering our air from other states and put those figures in our attainment demonstration. It sounds to Eagan that Stevens is asking DNR to lay out the issues and have a dialog to develop an agreement on which approach to take. Lopez noted that the December 2000 attainment submittal would be the deadline for submitting a 126 petition.

Handzel said he was concerned about what DNR would be asking Wisconsin industries to undertake as part of a multi-state agreement, and there needs to be dialog upfront on various choices. Lopez replied that perhaps DNR staff have not made it clear that they are looking at a wide range of potential point-source reductions. Tom Walker said it seemed to him that participants wanted to have input on whether a regional agreement makes sense for Wisconsin; if stakeholders and DNR can't agree on the types and amounts of reductions, how would the difference be made up? Eagan said any negotiating would be up to Sec. Meyer in consultation with Gov. Thompson's office. Walker said a lot of people want to provide input early enough so

that it will be meaningful. Lopez said the mid-course correction being discussed is a “safety-valve” to present Wisconsin from getting off track on its path to attainment because some reductions would not occur until 2003. Rob Kennedy said the group would benefit from a short discussion about the general probabilities of various scenarios and the likely ramifications of each scenario. Lopez said the DNR knows that Tennessee, Missouri, Kentucky, Michigan and Indiana are moving forward on developing rules to reduce NOx emissions; their activities form the “upper boundary” for the regional dialog on emission reductions. The “lower boundary” reflects the NOx SIP call plus DNR’s sensitivity modeling on impacts of additional reductions.

Ken Yunker asked Lopez to clarify whether the DNR is focusing strictly on actions to meet the one-hour ozone standard in its planning for the December 2000 submittal. Eagan replied that DNR may look at strategies that reduce NOx emissions in ways that benefit both the 1 hour and 8 hour ozone standards; she would prefer to consider strategies that show both 1 hr. and 8 hr. benefits, rather than those that benefit only the 1 hour standard.

Rate of progress requirements for 1990 Clean Air Act Amendments – Dennis Koepke said the task force has not discussed this issue in about two years because it was focusing on the NOx SIP call. The Clean Air Act requires nonattainment areas to reduce VOC emissions by specific percentages at certain intervals prior to their attainment deadlines. Beginning with 1996, areas subject to the NOx SIP call can substitute NOx emissions for VOC emissions on a percentage equivalency basis, rather than ton-for-ton. Overall Wisconsin needs to get a total of 48% VOC reductions by 2007 to meet all the required 3% chunks. We can add percentage reductions of VOCs plus relevant NOx reductions from the 1990 baseline emissions, which includes all emissions within the relevant area where the reductions are taking place. The NOx-for-VOC substitution is basically an accounting trick. DNR would like to develop a plan that satisfies both our ROP and attainment requirements. The handout shows DNR’s best guesses regarding the inventory. Outlining the handout, Koepke noted that the overall goal could be to reduce emissions to as little as 184 tons VOC equivalent per day. Another issue is that DNR was charging emissions fees of only a few dollars per ton in 1990, which resulted in emissions figures that may have been too high. Our emission fees are now much higher, which has given facilities a big incentive both to reduce their emissions and to report them more carefully. Thus Wisconsin may have a good case for saying we have had significant emission reductions since 1990 based on changes in business practices. He believes our current emission total is about 189 tons/day. He does not think Wisconsin will see another “structural change” in emissions that would provide another 15% reduction in point source emissions. The highway emissions on the chart include December 1999 SUV estimates, while area source reductions reflect the latest information from EPA plus the impact of federal rules on consumer products such as paints and coatings. Thus the question is where can Wisconsin get the rest of the necessary emission reductions. Koepke noted several possible areas, which individually and collectively would provide fairly small reductions.

Jumping to the 2002 ROP requirement, Koepke said the goal is have emissions of not more than 182 tons/day, which DNR estimates will be met with about 4 tons to spare. By 2002 highway emissions should start declining, reflecting reductions resulting from recent federal rules (Tier 1 tailpipe standards, NLEV vehicles, phase 2 reformulated gasoline, etc.) For similar reasons offroad engine emissions also should be declining. NOx emissions will decline somewhat thanks mostly to tailpipe rules and RFG. The only rule affecting industrial sources at that point will be the acid rain rule. Pat Stevens asked whether rulemaking was necessary; could the DNR use the Wisconsin Partners for Clean Air program as a precedent for gaining voluntary emission reductions? Koepke said EPA allows states to take not more than a 3% reduction for voluntary efforts. Koepke said 2005 is critical for Wisconsin for rate of progress, as reductions from current rules will fall about 12 tons short of meeting the 2005 ROP requirements. Thus we would have to do something to reduce NOx emissions at least for this requirement. If the NOx waiver remains in place DNR would have authority to count NOx reductions from surrounding areas, but not from the nonattainment area. We can seek VOC reductions not required by the Clean Air Act in counties within 100 km (62 miles) of the nonattainment area. For 2007, the emission goal and projected emissions are even farther apart. He outlined some rule changes that could produce adequate emission reductions; however, he said, there are other possible ways to get these reductions. Larry Bruss said that for VOCs a 3% reduction represents 10 tons. Sally Jenkins asked about DNR’s assumptions about adding new emission sources in the nonattainment area; Koepke said DNR grew out current emissions based on PSC’s Advance Plan 8.

According to Koepke, the critical decision for this group is how to get enough NOx reductions to meet the 2005 ROP requirements, as well as geographic extent and how the reductions fit with the attainment

demonstration. Carol Cutshall said she had thought there were two separate, unrelated NOx waivers; Bruss replied there is one waiver for transportation conformity and one waiver that covers I/M cutpoints, new source review and NOx RACT. His understanding is that if we count NOx reductions within the nonattainment area for ROP or towards attainment, we lose the NOx waiver. Current modeling does not justify retaining the NOx waiver, and DNR probably will recommend removing the waiver as part of its attainment demonstration. Kris McKinney said this particular modeling conclusion should be included in Bruss' proposed modeling workshop. Walker said the question of the NOx waiver is one of the policy issues that people want to discuss in much more detail. If modeling can demonstrate a disbenefit for maintaining the NOx waiver in northern Illinois, stakeholders will want to know what would happen to Wisconsin counties just north of the Illinois border if Illinois' waiver went away. Lloyd Eagan said she and her counterparts from Michigan, Illinois and Indiana had begun discussing this the previous day. The technical work on this issue will not be complete by early January 2000. In response to Lou Skibicki, Lopez said that LADCO had asked for NOx waivers for all nonattainment areas in the four states; EPA granted a waiver to each identified nonattainment area. Walker said an obvious question based on Koepke's charts is what to do about area source emissions, which are sticking out like a sore thumb because they have not declined in years. Eagan said some types of area source emissions will be subject to federal rules; Koepke said it's hard for localities and states to regulate activities like paint sales. Most of Wisconsin's area source reductions since 1995 have come from gasoline distribution and removing solvents from coatings. Martin David suggested statewide NOx controls as another option, and said he hoped DNR could provide some figures on that option.

Larry Bruss said EPA has conditionally approved DNR's April 1998 phase 2 SIP submittal, with various deficiencies identified. We still must submit a budget to be used in the conformity test, as well as a commitment to a midcourse correction around 2003. EPA must pass final judgment on our conformity budget by May 31, 2000. For this to happen we have to submit it by mid February 2000. We want to take the conformity budget, commitment to midcourse correction to public hearings simultaneously in January 2000. We need to fix our conformity budget to make it consistent with the level of emissions at which we can demonstrate attainment of the one hour standard. We plan to have public hearings, probably in late January, in the nonattainment area and we will alert local governments and other interested parties prior to those hearings to get their input. If people have suggestions for anyone particular to invite, please send those to Larry Bruss. Ken Yunker said SEWRPC is concerned that if current highway emission projections from SEWRPC exceed that budget, local governments would not be able to make any changes to their highway plans or programs and projects could be stopped dead at any phase (design, right-of-way acquisition, etc.) Bruss said the conformity budget will be valid for about 1 year after it is submitted to EPA. Eagan noted that DNR did not believe it had to submit a conformity budget in April 1998, and we have argued and lost about not doing so.

Other issues: Tom Walker asked Koepke to provide 1990 and 1996 ROP figures as part of a table combining them with today's handout. And (someone else) requested these numbers for the rest of the state.